

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MITCHELL SPROESSIG,

Plaintiff,

v.

JAMES BLESSMAN, et al.,

Defendants.

Case No. 1:19-cv-693

HON. JANE M. BECKERING

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**OPINION AND ORDER**

This is a civil rights action brought by a state prisoner under 42 U.S.C. § 1983. Plaintiff's original complaint named Defendants James Blessman and Randy Lindstrom; however, Plaintiff's claims against Defendants Blessman and Lindstrom were resolved through the early mediation program, and Plaintiff was granted permission to file an amended complaint against Keith Papendick, M.D., who declined to approve hernia surgery for Plaintiff (Orders, ECF Nos. 12 & 14). This Court subsequently dismissed Plaintiff's state-law claim against Defendant Papendick (Order, ECF No. 27), and Defendant Papendick moved for summary judgment on the remaining Eighth and Fourteenth Amendment claims Plaintiff alleged against him. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R&R), recommending that this Court grant Defendant Papendick's motion and terminate this action. The matter is presently before the Court on Plaintiff's objections to the Report and Recommendation. Defendant Papendick filed a response to the objections. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report

and Recommendation to which objections have been made. The Court denies the objections and issues this Opinion and Order.

Plaintiff makes two objections to the Report and Recommendation. First, Plaintiff argues that in recommending summary judgment of his Eighth Amendment claims, the Magistrate Judge failed to consider that Plaintiff's treating physician "requested the surgery to treat [Plaintiff's] enlarged hernia" and that Plaintiff was experiencing pain (Pl. Obj., ECF No. 53 at PageID.436–438). According to Plaintiff, "these facts established that it was medically necessary to perform surgery" (*id.* at PageID.438). However, the Magistrate Judge did not overlook these facts but recited them in his Report and Recommendation (R&R, ECF No. 48 at PageID.416, 420). Moreover, Plaintiff identifies no legal error in the Magistrate Judge's conclusion that Defendant Papendick's decision not to perform surgery was a matter of medical judgment that does not give rise to a constitutional violation (*id.* at PageID.422). Plaintiff's first objection is properly denied.

Second, Plaintiff briefly argues that the Magistrate Judge erred in failing to consider the "evidence presented in his reply brief" and failing to follow the criteria for resolving motions for summary judgment (Pl. Obj., ECF No. 53 at PageID.438–439). Plaintiff's second objection is also properly denied. The Magistrate Judge recited the proper standard for deciding motions for summary judgment (*see* R&R, ECF No. 48 at PageID.417–418), and Plaintiff's conclusory argument does not identify, let alone demonstrate, any factual or legal error in the Magistrate Judge's analysis of his claims.

Accordingly, this Court adopts the Magistrate Judge's Report and Recommendation as the Opinion of this Court. Because this Opinion and Order resolves the last pending claim in this case, a Judgment will also be entered. *See* FED. R. CIV. P. 58. Therefore:

**IT IS HEREBY ORDERED** that the Objections (ECF No. 53) are DENIED and the Report and Recommendation of the Magistrate Judge (ECF No. 48) is APPROVED and ADOPTED as the Opinion of the Court.

**IT IS FURTHER ORDERED** that Defendant Papendick's Motion for Summary Judgment (ECF No. 32) is GRANTED.

Dated: August 12, 2022

/s/ Jane M. Beckering  
JANE M. BECKERING  
United States District Judge

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**JUDGMENT**

In accordance with the Court's prior Orders (ECF Nos. 14 & 27) and the Opinion and Order entered this date:

**IT IS HEREBY ORDERED** that Judgment is entered in favor of Defendants and against Plaintiff.

Dated: August \_\_\_, 2022

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JANE M. BECKERING  
United States District Judge